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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

List of issues prior to submission of the initial report of Guyana*

Section I

A. General information

1. Please provide information on the domestic legal framework regarding the Convention, including:

(a) The rank of the Convention in national law and whether the Convention has direct effect or is part of national law through implementing legislation;

(b) Information on the relevant national legislation of the State party regarding the protection of migrant workers and members of their families and on migration policies under the Convention;

(c) Measures taken by the State party to fully harmonize its legislation, including the Aliens Act and the Expulsion of Undesirables Act of 1930, with the provisions of the Convention;

(d) The existence and scope of bilateral and multilateral agreements concluded with other countries pertaining to the rights of migrant workers and members of their families under the Convention, in particular with Canada, Suriname, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Venezuela (Bolivarian Republic of). Please specify how these agreements protect migrant workers' rights in transit and destination countries, in particular with respect to detention, repatriation, expulsion and family reunification procedures. Please provide information on measures taken to strengthen the protection of Guyanese migrant workers abroad, including by reviewing and amending bilateral and multilateral agreements.

2. Please provide information on all policies and strategies relating to migrant workers and members of their families adopted by the State party, such as the "remigrant programme", including information on specific, time-bound and measurable goals and

* Adopted by the Committee at its twenty-fourth session (11-22 April 2016).

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targets to effectively monitor progress in the implementation of the rights of migrant workers and members of their families in the State party. Please also provide information on resources allocated for implementation and the results obtained.

3. Please provide information on the government ministry or institution responsible for intergovernmental coordination on the implementation of the Convention in the State party, including information on the available staffing and resources, as well as monitoring activities and follow-up procedures. Please also provide information on the mandate of that ministry or institution and the resources allocated to it for promoting, protecting and fulfilling the rights of migrant workers and members of their families under the Convention.

4. Please provide qualitative information and statistical data, disaggregated by sex, age, nationality and migration status, on labour migration flows to and from the State party, including returns, on other labour migration-related issues and on children left behind by migrant parents. Please also provide qualitative and statistical data, or if precise data are not available, then studies or estimates, on migrant workers in an irregular situation in the State party and abroad. In addition, please provide information on measures taken by the State party to establish a coherent and comparable system of data collection on these issues, including measures aimed at making the information public.

5. Please provide information on whether the State party has established an independent mechanism, such as a national human rights institution, as foreseen by article 212 of the Constitution of Guyana, which has the explicit mandate of independently monitoring the human rights situation within the State party, including the rights of all migrant workers and members of their families under the Convention. Please also provide information on complaints mechanisms and other services, including helplines, offered by that institution and on whether the institution visits detention centres for migrants, should such centres exist. In addition, please provide information on the human, technical and financial resources made available to the institution and on awareness-raising activities carried out by the State party among the general public and migrant workers, in both urban and rural areas, in particular on the services offered by the institution, including the right to file a complaint directly with the institution.

6. Please provide information on the steps taken by the State party to promote and publicize the Convention and to increase awareness and understanding of its provisions among the general public, migrant workers and members of their families, employers, teachers, health workers, the media, civil society representatives and government officials, including law enforcement officials and the judiciary, within the State party. With respect to migrant workers who are nationals of the State party working abroad, please describe the measures taken by the State party to promote training programmes on the human rights of migrant workers and their families, including on gender sensitivity and the rights of the child, for government staff providing legal and consular assistance to nationals of the State party abroad dealing with migration and related issues, including workplace abuse and exploitation and discrimination faced by migrant workers. Please also describe the measures taken to promote training programmes on the human rights of migrant workers or members of their families who have been arrested, held in prison or migration-related detention centres, placed in custody pending trial or detained in any other manner, subject to expulsion or repatriation.

7. Please provide information on the cooperation and interaction between the State party, civil society organizations and other social partners working on the rights of migrant workers in relation to the implementation of the Convention. Please indicate whether and how the representatives of civil society organizations and other stakeholders will be involved in preparing the replies to the present list of questions.

8. Please provide information on the existence of private employment agencies in the State party recruiting migrant workers to work abroad and on the laws, rules and regulations pertaining to private recruitment, in particular information on measures to protect migrant workers from labour abuse and exploitation.

B. Information relating to the articles of the Convention

1. General principles

9. Please indicate whether the Convention has been directly applied by officials in the administration and whether it has been invoked directly before the courts. If so, please provide examples. Please provide information on:

(a) Judicial and administrative entities competent to examine and decide on complaints by migrant workers and members of their families, including migrant workers in an irregular situation;

(b) The number and type of complaints examined by such entities in the past five years and their outcome, disaggregated by sex;

(c) Whether legal assistance was provided;

(d) Any redress, including compensation, provided to the victims of such violations;

(e) Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

2. Part II of the Convention

Article 7

10. Please clarify whether national legislation, in particular the Constitution of 2003 and the Prevention of Discrimination Act of 1997, ensures that all migrant workers and members of their families enjoy the rights provided for in the Convention without distinction of any kind and whether the legislation covers all the prohibited grounds of discrimination enumerated in the Convention (arts. 1 (1) and 7), including sex, language, national, ethnic or social origin, nationality, age, economic position, property, marital status and birth or other status. Please provide information on all the measures taken by the State party to ensure non-discrimination, both in law and in practice. Please also provide information on the measures taken with the aim of harmonizing the principle of non-discrimination with immigration legislation, including the Expulsion of Undesirables Act, and of implementing it.

3. Part III of the Convention

Articles 8-15

11. Please provide information on any cases identified in the State party of exploitation of migrant workers and members of their families, in both regular and irregular situations, in particular those working in mining, agriculture and forestry. Please also provide information on any cases identified in the State party of domestic servitude, forced labour, and sexual exploitation, including commercial sexual exploitation, involving migrant workers, in particular women and children and especially in the context of sex tourism, and on measures to prevent and combat these phenomena. In addition, please provide information on the measures taken to bring national legislation into compliance with the

International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), and the ILO Abolition of Forced Labour Convention, 1957 (No. 105).

12. Please provide detailed information on the measures taken to investigate complaints of harassment, corruption and abuse of authority by law enforcement officials, including allegations of extortion and arbitrary detention, with regard to migrant workers and members of their families. Please indicate the number of complaints received and investigated in the past three years, as well as the number of law enforcement officials who have been investigated, prosecuted and convicted in this regard, specifying the nature of the charges made and sentences imposed.

Articles 16-22

13. Please provide information as to whether migrants in the State party can be detained because of their immigration status and how the State party implements article 8 of the Expulsion of Undesirables Act. Please describe the due process safeguards that exist in situations of investigation, arrest, detention and expulsion of migrant workers and members of their families for criminal offences and administrative infractions, including immigration-related matters. Please provide detailed information on immigration detention centres, conditions of detention for migrant workers and efforts to improve those conditions. Please indicate whether the State party has in place alternatives to detention for immigration-related matters.

14. Please provide detailed information on the measures taken, such as the revocation of article 9 of the Immigration Act and article 11 of the Expulsion of Undesirables Act, to ensure that, in line with the Committee's general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, irregular migration is not considered a crime.

15. Please provide information on measures taken to ensure that, in criminal and administrative proceedings, including expulsion proceedings, migrant workers and members of their families, in particular those in an irregular situation, are provided with legal assistance and interpretation, as necessary, and that they have access to information in a language they understand.

16. Please provide information on measures taken to ensure that migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by a competent authority, following a procedure established by law and in conformity with the Convention, and that this decision can be reviewed on appeal. Please include information on the due process safeguards provided in cases of expulsion from and denial of entry into the country.

Articles 23

17. Please provide detailed information on the roles of the State party's embassies and consulates in assisting and protecting migrant workers who are nationals of the State party working abroad, including those in an irregular situation, particularly in cases of abuse, arrest, detention and expulsion. Please indicate whether legal assistance is provided whenever the rights recognized in the Convention are violated, including in cases of detention and expulsion. Please provide information on the policies and practices of the State party in this regard.

Articles 25-30

18. Please indicate whether national labour laws and regulations relating to remuneration and conditions of work (for example, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of work contract and minimum wage) are in

full compliance with the ILO Equal Remuneration Convention, 1951 (No. 100), and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and whether they are enjoyed by nationals on an equal basis with migrant workers, in both regular and irregular situations.

19. Please provide information on the measures taken by the State party to ensure, in law and in practice, that all migrant workers and members of their families have access to health-care services, including urgent medical care.[1] In addition, please indicate whether the children of migrant workers, in both regular and irregular situations, have access to education on an equal basis with the children of nationals of the State party.

20. Please provide information on the measures taken by the State party to ensure the right of children of migrant workers abroad, including the children of migrant workers who are undocumented or in an irregular situation, to be registered at birth and to have their nationality of origin be recognized in law and in practice. Please also provide information on the measures taken to ensure the registration at birth of foreign migrant children in the State party.

Articles 31-33

21. Please describe the measures taken to ensure that migrant workers arriving in or preparing to come to the State party have access to clear information on immigration procedures, including full information on the conditions applicable to their admission, stay and the remunerated activities in which they may engage, as well as applicable laws and legislation in force.

4. Part IV of the Convention

Article 37

22. Please provide the Committee with information on the measures taken to fully inform migrant workers and members of their families prior to departure of all conditions applicable to their admission, stay and the remunerated activities in which they may engage, as well as applicable laws and legislation of the State of origin and of employment. Please indicate which government institution is responsible for providing such information and if any coordinated policies, programmes or legislation have been developed to ensure transparency and accountability in the process.

Article 40

23. Please provide information on the measures taken to guarantee to migrant workers and members of their families the right to form, and be part of the leadership of, associations and trade unions, in accordance with article 40 of the Convention and parts I and II of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Article 41

24. Please provide information on the steps taken by the State party to make it easier for its nationals residing and working abroad to exercise the right to vote and to be elected to public office in the State party. Please include information on the impact of dual nationality on the right to vote and to be elected to public office in the State party.

[1] Article 12 of the International Covenant on Economic, Social and Cultural Rights and article 24 of the Convention on the Rights of the Child.

Article 44

25. Please provide information on measures taken to ensure the protection of the unity of the families of migrant workers and to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their children. Please also provide information on the measures taken to provide foreign spouses of Guyanese nationals with the right to citizenship and protection from being deported to their countries of origin.

Articles 46-48

26. Please provide information on the policies in place to facilitate remittances. Please also provide information on the applicable legal framework in place to ensure the right of migrant workers to transfer their earnings and savings from the State of employment to the State of origin.

5. Part VI of the Convention

Article 64

27. Please provide information on the measures taken, including consultations and cooperation with other States, to promote sound, equitable and humane conditions in connection with the international migration of migrant workers and members of their families, including through multilateral and bilateral agreements, and policies and programmes. Please include information on how such measures have been mainstreamed in overall migration policies and programmes and whether there has been a reduction in the number of violations of the rights of migrant workers and members of their families as a result of such measures. Please also provide information on the Caribbean Community agreements relating to migrant workers. Please indicate whether the State party is planning to ratify the residence agreement concluded in 2002 by States members of the Southern Common Market (MERCOSUR) and, should it already have ratified the agreement, please provide information on the measures taken to implement it.

28. Please provide information on the measures taken to address the irregular migration of nationals of the State party, including through multilateral and bilateral agreements, policies and programmes aimed at enhancing legal migration channels, and campaigns aimed at countering misleading information relating to emigration, at raising awareness among nationals of the State party, including children, about the dangers of irregular migration and at addressing the root causes of irregular migration. Please include information on how such measures have been mainstreamed in overall migration policies and programmes and whether there has been a reduction in the number of irregular migrants as a result of such measures. Please also provide information on the measures taken to assist returning migrant workers and members of their families in resettling and reintegrating in the economic and social life of the State party.

Article 67

29. Please provide information on cooperation programmes in place between the State party and relevant States of employment for the voluntary return of migrant workers and members of their families to the State party when they decide to return or when they are in the State of employment in an irregular situation. Please provide information on cooperation programmes between the State party and relevant States of employment on promoting adequate economic conditions for resettlement and reintegration in the State party.

30. Please provide information on measures taken by the State party to ensure the rights of migrant children and their protection from all forms of exploitation, particularly unaccompanied children, in the State party. Please provide information on steps taken to protect children from hazardous work in compliance with the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), and to strengthen of the labour inspection system.

Article 68

31. Please provide information on cooperation efforts with countries of transit and destination, with a view to ensuring the safety of the State party's migrant workers abroad, including migrant children, whether accompanied or not, in transit through third States and upon arrival in the countries of destination.

32. Please provide information on measures taken, including through international, regional and bilateral cooperation with countries of origin, transit and destination, and corresponding human and financial resources allocated by the State party to prevent and combat trafficking in persons, in particular women and children. Please inform the Committee about the measures taken to ensure the effective implementation of the Combating Trafficking in Persons Act of 2005 and to ensure the prosecution, conviction and punishment of traffickers. Please also provide information on the status of the national plan of action against trafficking in persons for 2016-2017.

33. Please provide information on measures taken to assist and protect victims of trafficking, for example, by protecting the identity of the victims and by providing physical, psychological and social assistance to enable the recovery of victims, including durable solutions, and measures to ensure that victims have access to justice and legal remedies. Please also provide information on the efforts made to systematically compile disaggregated data on trafficking in persons and on the number of reported cases of trafficking in persons, investigations, prosecutions and sentences imposed on perpetrators.

34. Please provide information on measures taken, including through international, regional and bilateral cooperation with countries of origin, transit and destination, and on the corresponding resources, including human and financial resources, allocated by the State party to prevent and suppress the smuggling of migrants by organized criminal groups. Please also provide information on the measures taken to adopt specific legislation and policies on this matter, in accordance with the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, of 2000.

Section II

35. The Committee invites the State party to provide information (in no more than three pages) regarding the protection of migrant workers and members of their families with respect to the following:

(a) Bills or laws, and their respective regulations;

(b) Institutions (and their mandates) or institutional reforms;

(c) Policies, programmes and action plans covering migration, and their scope and financing;

(d) Recent ratifications of human rights instruments and other relevant instruments, including the ILO Migration for Employment Convention (Revised), 1949 (No. 97), the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the ILO Domestic Workers Convention, 2011 (No. 189);

(e) Recent comprehensive studies on the situation of migrant workers and members of their families.

Section III

Data, official estimates, statistics and other information, if available

36. Please provide, if available, updated disaggregated statistical data and qualitative information for the past three years, unless indicated otherwise, on:

(a) The volume and nature of migratory flows to and from the State party since the Convention entered into force in the State party;

(b) Migrant workers in detention in the State party and migrant workers who are nationals of the State party and are detained abroad in States of employment, and whether such detention is immigration-related;

(c) Migrant workers and members of their families who have been expelled from the State party;

(d) The number of non-accompanied migrant children or migrant children separated from their parents in the State party;

(e) Remittances received from nationals of the State party working abroad;

(f) Reported cases of trafficking in migrants, investigations, prosecutions and sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking);

(g) Reported cases of smuggling of migrants, investigations, prosecutions and sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of smuggling);

(h) Legal assistance services provided to migrant workers and members of their families in the State party and to nationals working abroad or in transit through third States.

37. Please provide any additional information on any important developments and measures to implement the Convention relating to the protection of the rights of migrant workers and members of their families that it considers a priority, including whether the State party envisages making the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

38. Please submit an updated core document in line with the harmonized guidelines on reporting (HRI/GEN/2/Rev.6). In accordance with General Assembly resolution 68/268, paragraph 16, the common core document should not exceed 42,400 words.[2]

39. The Committee may take up all aspects of the rights of migrant workers and members of their families in the Convention during the dialogue with the State party.

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[2] The common core document of Guyana was last submitted in 1995.